

CITY ETHICS COMMISSION

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Paul Turner  
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Nedra Jenkins

Valerie Vanaman

**CITY OF LOS ANGELES**  
**CALIFORNIA**



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**REGULAR MEETING OF THE  
LOS ANGELES CITY ETHICS COMMISSION**

**Tuesday, June 15, 2010  
9:30 a.m.**

**APPROVED**

**City Hall, Room 1050 – 10th Floor  
200 North Spring Street  
Los Angeles, CA 90012**

**1. Call to Order.**

Commission President Helen Zukin called the meeting to order at 9:37 a.m.

Present: Canter, Jenkins, Turner, Vanaman, and Zukin.

**2. Public Comment**

There was no public comment.

**3. Approval of draft minutes for the meeting of May 18, 2010.**

Nedra Jenkins moved to approve the draft minutes for April 13, 2010, and Paul Turner seconded. The minutes were approved 5-0.

**4. Consideration of and action on statements of economic interests for commission and department head SEI reviews [Shannon Prior].**

Program Analyst Shannon Prior recommended that the Commission approve cautionary letters for nominees Mr. Daniel H Suh, Ms Christine Essel, Mr. William A. Delgado, Ms. Angela S. Haskins, and Mr. Steven T. Nutter, and a standard letter for Mr. John Mack.

Jenkins moved to accept the recommendations, and Valerie Vanaman seconded. The letters were approved 5-0.

**5. Executive Director's report [LeeAnn Pelham].**

LeeAnn Pelham presented the report and highlighted recent staffing changes. Pelham welcomed and introduced the Commission to the new legal summer law intern, Linda Choe. Pelham announced that Terra Messina will be transitioning effective July 1 to the administrative analyst position vacated earlier this year by Alma Desowitz. Pelham also said that Program Manager Hiroshi Ishikawa will be leaving the Commission due to budget cuts and the inability of the Commission to sustain his position. She noted that he has been with the department since 2007 and has been an outstanding member of the policy division. Zukin thanked Ishikawa for his service to the Commission.

**6. Monthly policy and legislation report [Heather Holt].**

Director of Policy and Legislation Heather Holt presented this item. Vanaman asked about the motion regarding City employees negotiating labor MOUs. Holt explained that a City Council policy states that a council file expires if no action is taken on it for two years. In this case, a prior motion expired, and the new motion resurrects the issue. Jenkins asked if City employees are currently allowed to negotiate MOUs with the City on behalf of labor unions. Deputy City Attorney Renee Stadel noted that, when the original motion was pending, the Commission gave a verbal report to the City Council regarding that question. Stadel stated that most City employees are represented by unions, and many of the bargaining units are represented by professional negotiators, some of whom are City employees. Holt noted that no action has been taken by the City Council on this item.

Jenkins asked if the Commission should reintroduce the CPI review and amendment to Los Angeles Municipal Code (LAMC) § 49.7.1.2, since it is about to expire. Holt noted that the Commission could submit another report, but the fact that the file is expiring may indicate any future response from the City Council. Pelham noted that the Council, by not acting on the file, achieved the recommendation to not raise the contribution limits at this time.

Jenkins asked why the lobbying recommendations have not been considered and if there is anything that the Commission can do to put it on the City Council's radar. Holt said that she had spoken to some Council staff who indicated that the lobbying proposal might be taken up in the fall. She noted that commission staff have communicated to City Council offices the importance of the issue and that the Commission would like it to be considered. Zukin noted that if the Council waits until September to hear the item, it will have been in City Council for one year before any action is taken.

Turner noted that he attended Councilman Huizar's election reform forum, where they discussed rank choice voting (RCV), and he asked if the Commission had made any recommendations regarding Councilman Huizar's previous forum on campaign finance reform. Holt said that the Rules and Elections Committee considered that motion on May 26 and continued it pending a report from the Commission. Pelham added that, when the Council had presentations on RCV a few years ago, the Commission declined to take any action to support or oppose the issue. Turner asked if the pending report on RCV would

come from the Commission, and Holt explained that the report would come from the working group established by the City Council.

**7. Consideration of and possible action to adopt Personnel Department's executive search recruitment plan in connection with Executive Director term limit established by City Charter § 701(a) [Helen Zukin].**

Senior Personnel Analyst II Charlette Rodgers-Starkey and Leonard Torres from the Personnel Department's executive recruitment division presented the item.

Zukin noted that Rob Saltzman is a consulting member of the sub-committee for the executive director search, and that he has signed off on the latest version of the job description. Jenkins noted that on the second page of the job description there should be a paragraph between "gifts" and "advice". She also asked what the impact of the furlough days would be on the position's salary, and if it is included in the listed salary in the job description. Starkey noted that the salary amount on the description does not take into consideration the sixteen furlough days that the position would be required to take in FY10-11. Vanaman asked what the Personnel Department has listed on other job descriptions, and Starkey noted that it has not been included in other job listings. Zukin suggested that the mention of furlough days should not be included in the job posting, but to leave that for discussion during the interview process. The Commission agreed to move forward with the job description.

Canter asked when the job description will be posted, and Starkey noted that it will be posted by August 1<sup>st</sup>, but that it may be posted a earlier on some sites due to the fact that some publications come out earlier than August 1<sup>st</sup>. Zukin asked if there is any benefit in posting it earlier, and Starkey stated that posting it earlier may allow for more visibility. She said that it can be posted on the Personnel's website as early as the end of this week and that she can start working on the other listed websites. Canter asked if there is any downside in posting it early, and Starkey noted that it would only be a problem if there is not communication between the Personnel Department and the candidate, but that they would be communicating regularly with them.

Zukin asked the Commissioners if they have any other places that they would like to post the job description. Jenkins suggested posting it in the Pasadena Star News. Turner suggested posting it on the California State Bar and Federal Fair Practices Commission's websites. Zukin asked if the list is covering nationally what it needs to cover in order to conduct a national search, and Starkey noted that there is another list of human resource agencies from major cities across the nation that can be added. Starkey also stated that there are government job sites that could be added, as well. Turner suggested adding it to the National Bar Association's website. Zukin suggested the Asian Pacific Bar Association. Starkey explained that once they make the changes the final copy will be sent to the Commission and will notify them when it is posted.

Zukin asked what the process is once applications are submitted and the role of the sub-committee. Starkey stated that the Personnel department will rank all applications received,

from minimally qualified to highly qualified. Once applications are submitted there is a confirmation email sent back to the applicant, and tallies of the number of applications received will be sent to Pelham for dissemination to the Commission. After the position has closed, the Personnel Department will present all of the ranked applications to the Commission and they can then decide who they would like to bring in for interviews. Zukin asked Pelham how she will keep the Commission apprised to the number of applications coming in, and Pelham stated that she will email the Commission when she receives updates of the number of applications received. Jenkins asked if the presentation of resumes will be just the sub-committee or the entire Commission. Starkey stated that it is up to the Commission if they would like to choose the candidates, or have the sub-committee choose who will go forward for an interview. Jenkins asked if opening it up to the full Commission for the presentation of candidates would make the meeting open to the public. Stadel noted that discussions on the general process of the selection must be open to the public; however, she stated that she is going to verify that the Commission can go into closed session to discuss specific candidates. Jenkins explained that if the meeting can be in closed session, she would like to participate; however, if the meeting must be open to the public, she would rather refer the selection process to the sub-committee.

Zukin asked if there is any benefit to moving up the whole process. Canter stated that is concerned that the posting may get stale if it is posted on July 1<sup>st</sup> and does not close until September 23<sup>rd</sup>, she suggested closing the position after Labor Day. Turner stated that he is comfortable with keeping the schedule the way it is since he will be out of the country all of August. Canter stated that she would like the position to close at the beginning of September, rather than at the end. Jenkins pointed out that the beginning of September was the scheduled time for the position to close. Vanaman and Jenkins both stated that they are comfortable with the timeline the way it has been proposed. Zukin questioned whether including the entire Commission is going to slow down the vetting process or not. Vanaman asked if it is possible to make that decision perhaps in August when the Commission has a better idea as to how many applicants will respond to the job posting. The Commission's consensus was to open the application period now as the job announcement has been finalized, and to accept applications through September 10, if a sufficient number of qualified candidates have applied by that time, with the expectation that the Commission would make its selection November 15.

#### **8. Consideration of and possible action on OAH contract for FY10-11.**

The item was continued to the July meeting. Jenkins asked why this item was continued, and Pelham stated that there was some communication between the staff and the presiding judge on this matter; however, the OAH had not been able to confirm final language for the proposed contract at this time. Director of Enforcement and Deputy Executive Director Deena Ghaly added that the presiding judge responded to her requested to add more detailed billings. Ghaly noted that the judge gave an example of what she might consider to be detailed billings, and it contained two entries, one that read "calendar (billable)", and another that read "law and motion". Ghaly stated that she did not believe that the example the judge provided gave the level of detail that the Commissioners expressed interest in,

therefore, she requested the judge to consider a different type of billing. The staff is awaiting a response from the judge.

**9. Consideration of and possible action on proposed stipulated settlement:**

***In the Matter of Jack Weiss, CEC Case No. 2010-14 (alleged campaign finance reporting violation pertaining to the 2009 City primary election [Deena Ghaly & Dominic Berbeo].***

Ghaly presented the item and highlighted that the item is a stipulated settlement regarding a single violation of Los Angeles Municipal Code (LAMC) § 49.7.15 of the Campaign Finance Ordinance (CFO). Ghaly explained that this is a reporting requirement candidates who are not in the matching funds program are required to comply with. It requires them to notify the Commission when they have reached the threshold that matching funds candidates are allowed to spend. She noted that the report came in six or seven months late. Ghaly stated that the penalty formula provided under the Charter for these types of cases can be quite high. The staff tracked a similar case, but added a multiplier for this case given that Mr. Weiss had previous enforcement history involving a reporting violation, Ghaly explained. The multiplier was fifty percent, and the recommended penalty is \$3,750.

Canter stated that the penalty is not large enough to disincentivize candidates from violating the law. Ghaly noted that the fine structure under the regulatory schema is broad and the penalty in this case can be from nothing to well over one million dollars, therefore, the staff tried to track historically what the Commission has imposed to try to find an equitable penalty. She noted the staff used the factors that are listed in 24.1.2(e)(5)(E) [sic. 24.1.2(e)(7)(E)] which lists things such as intent, which would be considered criminal violations.

Canter expressed her concern that, relatively speaking, the fines that the Commission imposes for these types of violations are small in comparison to the amount of money that is spent on a campaign. Jenkins also expressed her concern that the fine seems low when you take into account that it can be up to \$1,200,000.

Vanaman stated that she is confused as to how the Commission makes decisions on penalties and would appreciate a time where the staff and the Commission can work through potential fines and how all of the decisions on the penalties are made. Zukin agreed that it would be helpful to have a discussion on the general fine structure held in open session; however, she requested that Ghaly give the Commission the specific analysis on how the staff arrived at the penalty amount. Ghaly explained that the reporting requirement is a difficult type of calculation because it is a single occurrence. It does not expand or contract with the size of the violation as do the dollar-for-dollar penalties, therefore it makes it more difficult to tailor the penalty to the violation, Ghaly explained. She noted that the staff veered away from the maximum penalty amount since they could not prove intent in the violation. Jenkins asked what the maximum penalty would be in this case, and Ghaly stated that it is three times the amount that they failed to report, which would be \$3,600,000.

Ghaly noted that if the penalty amount was at or near the maximum it would raise some due process concerns. Jenkins asked if the purpose of the penalty to dissuade the respondent from acting as such in the future, and Ghaly explained that since the Commission is an administrative agency, one of its purposes is to act as a deterrent. Jenkins asked how a \$3,700 fine would accomplish the goal of dissuading an actor from violating the law again in the future. Ghaly explained that there are some candidates who are in the position to raise very large legal defense funds, and other candidates who are not in the position to do so; therefore it has a regressive impact.

Jenkins noted that this is not the first violation that this candidate has had, and Ghaly stated that often that the embarrassment of having a case before the Commission is enough of a deterrent for candidates. Ghaly also explained that Mr. Weiss, in a previous case brought before the Commission, had forty violations. In this case, Ghaly noted, there is only one count—although, significant—in an otherwise clean campaign.

Canter noted that a lot of money is spent on campaigns, and that must be taken into consideration in this case, in addition to the fact that most candidates are very knowledgeable to the laws associated with running a campaign. Canter asked if the fine is coming out of the remainder of the candidate's campaign fund, and Ghaly noted that she believes that to be the case. Canter expressed her concern with the fine being too low, and that she wants the public to view what the Commission is doing as effective. Ghaly noted that compliance has gone up, and audits are increasingly turning up little or no findings, and that she believes that the Commission's work is effective.

Zukin expressed that she is concerned that the conversation is moving beyond the case in front of them, and that it should surround this particular case. Zukin explained that she believes that intention is a consideration that should be made in this case. Ghaly explained that June 30, 2008 was when the committee was required to notify the Commission that they had reached a threshold amount of money in their fundraising. Tristan stated that there was a regular reporting requirement that was due on July 31, 2008 that would have been approximately a month and a half after the date that the committee would have been required to report. Ghaly explained that once the committee reached the threshold, they should have notified the Commission, and the Commission would have notified Mr. Weiss's opponent that he was now able to fundraise above the \$400,000 limit. The opposing candidate was not notified until it became public in the committee's regular report submitted on July 31, 2008. Ghaly noted that this was an aggravating factor in this case, but they did not have sufficient evidence to prove scienter. Zukin noted that the specific filing regarding the fundraising threshold was not made until January of 2009. She asked if the Committee should have reported it to the Commission as soon as they realized their mistake, or if they should have waited until the next filing. Tristan explained that when the committee filed their regular report, they realized that they hadn't filed the specific report, and included it in their filing in January. Tristan noted that he and a member of his staff spoke to the committee's treasurer, and they realized that they hadn't filed the specific filing, and the staff advised them to submit the report. Tristan said that it appeared that it was an oversight, and filed the report immediately.

Vanaman asked how this number was negotiated, and Ghaly explained that the staff used a fine structure based on a standard set of circumstances. Ghaly noted that the committee, when presented with settlement amount, initially asked for a reduction in the fine amount, however, the staff refused.

Jenkins noted that the statute involved in this case recognizes that large amount of money are spent on campaigns, and that she does not feel that the fine is high enough in this case. She expressed that when the maximum fine can be \$3,600,000, \$3,750 is just too low. She noted that the candidate who was participating in the public matching funds program was denied the information that may have changed the race, therefore the harm was significant.

Turner asked if the fine was the originated by examining to the cash balance left in the campaign fund, and Ghaly stated that it was not the basis of their determination.

Vanaman asked why the staff didn't propose \$5,000, and Ghaly explained that a fine of \$5,000 would require proof of intent, significant enforcement history, and any evidence of negligence—the only element that the case displayed was significant enforcement history.

Canter stated that this is not an isolated situation, and that there are other cases that she has felt similarly about. Ghaly asserted that these are two separate issues and perhaps there could be a separate discussion about the global issue. Canter stated that she would like to have that conversation before the next election cycle.

Vanaman asked if the respondent knew about the special filing at the June 30, 2008 filing deadline, and Tristan noted that the respondent didn't seem to know about the filing until January.

Jenkins asked if the treasurer for Jack Weiss is an experienced treasurer, and Tristan noted that she serves as treasurer for Herb Wesson, and has worked for Jack Weiss since 2001. Jenkins asked if she was his treasurer when got the prior violation, and Tristan stated that she was.

Turner argued that the lack of the filing did have an effect on the campaign itself, and Investigator Dominic Berbeo noted that one of the arguments the respondents made was that had the filing been made it would have allowed the respondent's opponent to raise over \$400,000 from non-individual contributors, however, his opponent only raised about half of that amount from non-individual contributors.

Zukin noted that she is not comfortable with changing the policies in the midst of deciding on a case, however, she would recommend rejecting the fine amount, and have the discussion about what the guidelines are first.

Vanaman explained that she would vote to accept the stipulation, but would like to have the discussion regarding the staff's fine policies for future cases.

Jenkins said that she would not accept the staff's recommendations regarding the stipulation because it is not high enough to act as a proper deterrent.

Turner expressed his concern that the fine is too low and that he would recommend an amount that is four times the proposed stipulated settlement amount.

Zukin asked what happens if the Commission moves to change the settlement amount today. Stadel explained that the Commission would not propose a different amount for the settlement today; rather they would reject the stipulation, and the staff can use the conversation held today to propose a revised settlement amount.

Zukin noted that the treasurer has been in her position for over ten years, has had a prior enforcement history, and therefore the failure to file this specific filing seems to be negligent. She noted that she is not comfortable with the staff's proposed fine amount and is not comfortable with Commissioner Turner's proposed fine amount.

Stadel noted that the Commission has three options when a proposed stipulation settlement comes before them—to accept the staff's recommendations; reject the staff's recommendations; or to continue the item.

Jenkins moved to reject the proposed stipulation and for the staff to enter into negotiations based on the Commission's recommendations, and Zukin seconded.

Turner asked why the respondent would want to enter into further negotiations, and Jenkins noted because they could face \$3,600,000 in fines. Stadel stated that the options are to negotiate a different amount or go to a full administrative hearing. Ghaly added that the third option for the respondent would be to waive due process rights and come before the Commission to hear their case.

The motion passed, 5-0.

The Commission took a two minute break.

Stadel noted that with regard to the last item, the Commission was considering whether to reject or accept the stipulation, and it was in no way a determination of any facts. She noted that if a matter were to be heard by the Commission, or presented as an administrative hearing, there could be other facts presented by all sides.

**10. Consideration of and possible action on City Attorney communication regarding repeal of City Charter §§ 470(c)(5) AND 803(b)(4) and Los Angeles Municipal Code § 49.7.24, regarding contributions to committees making independent expenditures [Renee Stadel].**

Stadel presented the item and stated that campaign finance laws are changing given the United States Supreme Court decision on *Citizens United v. Federal Elections Commission* (*Citizens United*). She highlighted that *Citizens United* considered direct spending by



corporations, and the decision deemed the federal restrictions on this type of spending to be unconstitutional. Following the Supreme Court's decision the Ninth Circuit Court considered a case involving the City of Long Beach and its restrictions on committees that make independent expenditures, Stadel explained. The Ninth Circuit ruled that the Long Beach ordinance was unconstitutional as applied to the Long Beach Chamber of Commerce Political Action Committee. She highlighted that this decision followed other circuit decisions that struck down similar rules because they considered independent expenditures as having no potential for corruption since there is not a direct connection to the candidate.

Stadel explained that the City has three separate restrictions that limit contributions to committees making independent expenditures, two in the Charter and one in the municipal code. She noted that it is the view of the City Attorney's Office that the City's provisions can no longer be defended given the decision from the Ninth Circuit Court. Stadel noted that the City of Long Beach may consider a writ with the United States Supreme Court; however, it is not likely that the court would hear it given their recent decision regarding the matter. She stated that the City of San Diego is litigating a number of issues concerning this matter with the District Court, however, the decision will not be heard for quite sometime. She explained that it is her recommendation that the Commission adopt a resolution that makes it clear that they will not be enforcing these provisions, but that they will continue to enforce its disclosure and coordination rules regarding independent expenditure rules. Stadel said that the City Attorney's Office has recommended to the Council that they repeal the ordinance provision and to add the Charter revisions to the ballot in a future City election.

Vanaman moved to adopt the resolution, and Jenkins seconded. The resolution was approved 5-0.

**11. Consideration of and possible action on recommendations regarding the Governmental Ethics Ordinance's provisions on confidential information, misuse of position, and non-City employment [Heather Holt].**

Holt highlighted that the item is the second set of recommendations the staff is presenting regarding the Governmental Ethics Ordinance (GEO). She noted that it makes recommendations regarding GEO provisions regarding impartiality, which are designed to ensure that government processes are fair and not based on unwarranted bias for or against a particular citizen or based on a public servant's own personal interests. Holt explained that the recommendations address confidential information, misuse of position, and non-city employment.

The first recommendation addressed confidential information. Holt stated that both current and former City employees are prohibited from using or disclosing confidential information for private benefit. Holt said that the recommendation is to amend the definition of "confidential information" so that it simply means anything that is not subject to disclosure under the Public Records Act. Jenkins moved to accept the staff's recommendations, and Vanaman seconded. The motion passed 5-0.

The next recommendations addressed the misuse of City positions. Holt explained that City employees are not permitted to use their City positions to induce or coerce a person to provide anything of value for private advantage. She noted that there were several recommended improvements. The first is to clarify that the provision applies when a City employee is acting independently. Holt explained that the provision can currently be read to mean that the City employee must involve a third party. Jenkins moved to accept the staff's recommendations, and Vanaman seconded. The motion passed 5-0.

The second recommendation with regard to misuse of position was to clarify that the provision applies to attempts to misuse a City position. Holt explained that if a City official intends or attempts to do something with her position to gain private advantage, it remains improper activity even if the private advantage does not actually occur. Jenkins moved to accept the staff's recommendations, and Canter seconded. The motion passed 5-0.

The third recommendation with regard to misuse of City position was that the prohibition be expanded to prohibit the use of a City position to create an unwarranted private advantage or disadvantage. Jenkins moved to accept the staff's recommendations, and Turner seconded. The motion passed 5-0.

The final recommendation with regard to misuse of position was to carve out a limited exception for solicitations for donations for philanthropic purposes—such as a holiday toy drive—as long as the solicitation falls within certain parameters. Holt said the recommended parameters are that the solicitation be authorized by an elected official or general manager who doesn't have a conflict with the recipient of the donation; that the solicitation be broadly disseminated; that it not be addressed to any person who has a matter pending before that particular agency; and that the solicitation activities not interfere with the agency's ability to conduct its regular business. Jenkins expressed concern with the parameters and said she wanted to see language before she could vote to change it. Vanaman expressed concern, as well, and said that the language will be very difficult to write since it is a delicate situation.

Jenkins said that solicitations for City-sponsored charities, such as Daffodil Days, work. But some situations, such as a retirement fundraiser, can create undue pressure on individuals to contribute. Zukin suggested tabling the issue to give staff time to come back with proposed language. Vanaman said that language addressing this concern may be difficult to draft. Holt asked if the commissioners would be comfortable not having an exception, and Jenkins said that there is a need for an exception, as long as it can be crafted appropriately.

Holt next presented recommendations regarding outside employment. She noted that non-elected full-time City employees are currently required to obtain written approval from their general managers before receiving outside income. She noted that if the source of the income is a person who is engaged in specified activity with the City, the Commission must also weigh-in and determine whether the outside income would be in conflict with or inimical to the person's City duties. Again, the staff made a number of recommendations.

The first recommendation regarding outside employment was to clarify the definition of “City official.” Holt explained that City employees who substantively participate in or make City decisions are required, under state law, to be identified in a conflict of interests code for the agencies in which they serve. The current definition in the GEO could be read to mean that you are a City official only if you hold a position that is actually listed on a conflict of interests code. However, the staff believes that the proper interpretation of the definition is to include City employees who qualify under state law, even if their agencies’ conflict of interests codes have not yet been updated to reflect changes in organizational structures. Jenkins stated that outside earned income should also be defined, and Holt explained that it is defined in state law. Vanaman moved to accept the staff’s recommendations, and Jenkins seconded. The motion passed 5-0.

The second recommendation regarding outside employment was to apply the requirement for prior approval to both part-time and full-time City officials, with the exception of part-time members of boards and commissions. Jenkins moved to accept the staff’s recommendations, and Vanaman seconded. The motion passed 5-0.

The third recommendation regarding outside employment was to clarify the approval process. Holt said that the staff believes the appropriate process is that the responsibility for obtaining approval lies with the employee who wants to engage in the outside employment; approval should be sought from the general manager first; the general manager may consider the ethics criteria that are identified in the GEO or agency-specific issues. If the general manager declines the approval, that’s the end of the inquiry. But if the general manager approves the employment, it is the employee’s responsibility to determine if the source of income is engaged in a specified activity and, if so, to obtain approval from the Commission. Jenkins moved to accept the staff’s recommendations, and Vanaman seconded. The motion passed 5-0.

The third recommendation regarding outside employment was to modify the list of outside sources of income that would trigger Commission approval, to make them consistent for all City officials and agency specific. Jenkins moved to accept the staff’s recommendations, and Vanaman seconded. The motion passed 5-0.

The fourth recommendation regarding outside employment was to expand the definition of income. Holt noted that the state’s definition excludes salaries from governmental entities, but there could be a conflict between a City position and a position with another governmental entity. Jenkins moved to accept the staff’s recommendations, and Vanaman seconded. The motion passed 5-0.

Holt next presented the recommendations regarding the revolving door provisions that apply to City officials who leave City service. She noted there are two types of revolving door provisions in the GEO. The first are referred to as permanent restrictions, and the second are time based restrictions. Holt said there were two recommendations regarding the former. The first is to clarify what is meant by “personal and substantial” participation in a City decision. Currently, all employees are prohibited from receiving compensation to attempt to influence any City decision in which they personally and substantially

participated during City service. Holt said that the staff recommends clarifying that “personal and substantial” participation means participating in other than a ministerial capacity. Jenkins moved to accept the staff’s recommendations, and Turner seconded. The motion passed 5-0.

The second recommendation regarding the permanent ban is the length of time that it applies. Currently, Holt explained, the ban applies as long as the matter is still pending with the City, as long as the City is still a party to the matter, or as long as the City has a direct and significant interest in the matter. The staff recommends limiting the duration to as long as the matter remains unresolved either by the City or by a decision-maker before whom the City is a party. Turner moved to accept the staff’s recommendations, and Canter seconded. The motion passed 5-0. Stadel noted that certain employees have stricter restrictions under state law. She stated that when the language for this provision comes back, it should account for those people, so that it is clear that City law is not less strict than state law. Jenkins asked if the staff recommended a definition for “ministerial capacity”, and Holt stated that staff proposes the definition created as part of the lobbying ordinance review, which is “not requiring the exercise of discretion concerning the outcome or course of action.”

Holt presented the recommendation regarding the time-based revolving door restrictions, which create “cooling-off” periods that prohibit City officials from engaging with the City for compensation for a certain amount of time, regardless of whether they participated in the matter as City officials or not. For elected officials, the voters approved a two-year cooling-off period in which they cannot attempt to influence any City agency. For high-level officials, Holt explained that there is a one-year cooling-off period in which they cannot attempt to influence any City agency. For all other City officials, there is a one-year cooling-off period during which they cannot attempt to influence their former agencies. The first recommendation was to update the definition of “high level official”. Holt noted that the definition is based on outdated titles but should be based on positions or functions. Jenkins moved to accept the staff’s recommendations, and Vanaman seconded. The motion passed 5-0.

The second recommendation regarding the time-based revolving door restrictions was to include all general managers and commissioners in the definition of “high level official”. Jenkins moved to accept the staff’s recommendations, and Vanaman seconded. The motion passed 5-0.

The third recommendation regarding the time-based revolving door restrictions was to require elected officials to annually identify the two members of their staffs that hold the most significant responsibilities for making decisions, as well as any other staff who have responsibilities that are equivalent to the two that have to be identified. Jenkins moved to accept the staff’s recommendations. Canter asked if this provision would apply to the Board of Education, and Holt noted that it would only apply to City officials. The motion passed 5-0.

The fourth recommendation regarding the time-based revolving door restrictions was to clarify that the provision would apply to individuals who hold a qualifying position for any length of time during the 12 months prior to leaving City services. Jenkins moved to accept the staff's recommendations, and Vanaman seconded. The motion passed 5-0.

The fifth recommendation regarding the time-based revolving door restrictions was to clarify that an agency in which a former City official serves includes the agency by which the official was employed, as well as an agency to which the official was on loan or primarily assigned. Jenkins moved to accept the staff's recommendations, and Turner seconded. The motion passed 5-0.

The final recommendation regarding the time-based revolving door provisions was to revert to the general definition of "agency" for City Council staff, so that it means the entire City Council. Vanaman asked why the current limitation was originally adopted, and Pelham noted that it was a political compromise. Vanaman said that she was not in favor of the change. Jenkins moved to accept the staff's recommendations, and Turner seconded. The motion passed 4-1.

Holt next presented the recommendations regarding future employment. She explained that City officials are prohibited from negotiating future employment with persons who have matters pending before them or before boards of which they are voting members. Holt said that the provision also prohibits City officials from acting on matters that would impact someone with whom they have an agreement regarding future employment. The recommendation was to apply the provision to negotiations regarding future employment or future business opportunities. Jenkins moved to accept the staff's recommendations, and Vanaman seconded. The motion passed 5-0.

**12. Consideration of and possible action on operational priorities for Fiscal Year 2010-11 in light of adopted City budget [LeeAnn Pelham].**

Pelham presented the item and highlighted that the item outlines the proposed top priorities of the Commission's staff for the year ahead. She noted that the organization chart, Attachment B, had been slightly revised to update titles and highlight the work the Commission is not pursuing at this time due to limited staffing resources.

Vanaman asked if there are any new items that the staff will not be pursuing after July 1<sup>st</sup> due to staffing levels, and Pelham explained that the proposed prioritization as shown in the memo would be the focus of the staff in the coming fiscal year. Vanaman asked what "formal Commission opinions" are. Pelham stated that the Commission has the authority under the Charter to issue formal written opinions based on a request received. Vanaman asked if a City official requesting advice on, for example, whether or not to take tickets to sporting events would be considered a request for a formal opinion from the Commission. Pelham noted that typically that would be considered formal written advice by the staff, not a formal opinion from the Commission. Opinions provide the Commission's interpretation about a provision of law in general, whereas formal written advice applies the law to very specific prospective actions on the part of a requestor. Zukin asked who has requested

opinions from the Commission in the past, and Pelham explained that the three the Commission has issued in its history were requested by a sitting City Councilmember, a treasurer of an elected official, and a private attorney. Vanaman then asked if all the positions listed on the org chart are currently filled positions, and Pelham explained that they are filled. Vanaman asked if the staff all does their own clerical work and Pelham confirmed that each staff member takes care of his or her own clerical work.

Jenkins asked if the staff has given a formal notification to each department in the City of its staffing reductions regarding the updating of their conflict of interests codes. Director of Program Operations and Deputy Director David Tristan stated that he is currently working with the City Attorney's office to develop a new process for updating the conflict of interests codes and in developing a message to convey to the City departments regarding the necessary changes.

Jenkins asked if there have been any further efforts to recoup the costs of auditing the LAUSD campaign finance reports. Pelham noted that the staff has not yet contacted them but would do so within the next month and provide an update at the next Commission meeting.

Vanaman asked what "tier one" and "tier two" priorities mean, operationally. Pelham explained that "tier two" priorities were those that are in flux as they may change depending on actions by, for example, the City Council, but that they were not likely be initiated by the Commission's staff.

Vanaman asked if Pelham expects any turnover in the staff given the reduction in salaries for the upcoming year. Pelham stated that she does not expect any turnover due to the expected furloughs; however, it is not uncommon for transitions in staff to occur when there is a change in staff leadership.

**13. Action to adopt a regular meeting schedule for the first half of Fiscal Year 2010-11.**

Turner noted that he will be out of the country most of August, and will not be attending the Commission meeting. Jenkins moved to adopt the recommended meeting schedule, and Vanaman seconded. The schedule was approved 5-0.

**14. Announcements and requests to schedule items on future agendas.**

There were no announcements or requests to schedule items on future agendas.

**15. Adjournment.**

Jenkins moved to adjourn the meeting, and Turner seconded. The meeting was adjourned at 12:15 p.m., by a vote of 5-0.